

# **EXHIBIT 1**

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 MARK NUNEZ, et al.,

4 Plaintiffs,

5 v.

11 Civ. 5845 (LTS)

6 CITY OF NEW YORK, et al.,

7 Defendants.

Conference

8 -----x

9  
10 November 17, 2022  
11 2:30 p.m.

12 Before:

13 HON. LAURA TAYLOR SWAIN,

14 Chief District Judge

15 APPEARANCES

16 THE LEGAL AID SOCIETY  
17 Attorneys for Plaintiff Class

18 BY: MARY LYNNE WERLWAS  
19 KAYLA SIMPSON

-and-

20 EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL, LLP  
21 BY: DEBRA L. GREENBERGER

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24 Southern District of New York  
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APPEARANCES (Continued)

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Court Monitor

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Deputy Court Monitor

Also Present:

Louis Molina, Commissioner DOC

Christina Vanderveer, Deputy Associate Monitor

Alycia Karlovich, Analyst

Dennis Gonzalez, Associate Director

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1 remedial orders, and existing local, state, and federal laws  
2 and regulations that are in place. If the receiver can't work  
3 within those confines, if those laws or regulations prevent  
4 them from carrying out their duties and responsibilities set  
5 forth by the Court, only then can the receiver petition the  
6 Court for additional powers necessary to achieve compliance  
7 with the Court's orders. Notably, this is similar to what the  
8 city is doing now by seeking authority from the Court to hire  
9 facility leadership from outside the current uniform ranks.

10 Appointment of a receiver will set things back rather  
11 than move things forward, especially when there is already the  
12 leadership in place, the interagency collaboration, and the  
13 focus of resources that have never been seen before that is  
14 able to turn the tide now.

15 Thank you, your Honor. And I'm going to turn now to  
16 Commissioner Molina, and I'm happy to answer whatever questions  
17 the Court may have.

18 THE COURT: Thank you. I'll hold my questions for  
19 now.

20 Commissioner Molina.

21 MR. MOLINA: Good afternoon, your Honor.

22 THE COURT: Good afternoon.

23 MR. MOLINA: Thank you for the opportunity to address  
24 the Court again and to share with the Court the progress the  
25 department has made under the action plan developed jointly

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1 with the monitor.

2 The monitor has previously stated that for the  
3 department to move forward with sustainable reforms, its  
4 leadership must address four foundational issues: (1) Deeply  
5 flawed security practices that are inconsistent with best  
6 correctional practices, (2) inadequate supervision of rank and  
7 file staff and facility leadership, (3) staffing practices and  
8 procedures that fail to effectively deploy staff across the  
9 agency, and (4) a timely and meaningful discipline process with  
10 the goals of both accountability and improved work performance.

11 Since being appointed by Mayor Adams the Department of  
12 Correction leadership team has been focused on addressing these  
13 four foundational issues. The action plan approved by this  
14 Court in June memorialized the pathway forward for building the  
15 department's ability to reform itself.

16 I understand the public and the parties to this  
17 consent judgment are frustrated with what went on for the last  
18 six years, from 2015 to 2021. However, this administration is  
19 committed to resolving the long-standing systemic issues that  
20 have plagued the department.

21 The challenges before us are complex and require  
22 correctional and business management expertise and experience.  
23 Antiquated thinking and transitioning of this city's  
24 responsibility to third parties, such as a receiver, will not  
25 solve these issues. Your Honor, my team and I will. The

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1 department around. We have the expertise to do it.

2           Your Honor, the tough decisions that I've had to make  
3 and will have to make in the future do not come easy. It is  
4 unfortunate that after so long that the reasons we are at this  
5 point is because of the intentional disinvestment in this  
6 department's staff, infrastructure, and people in custody from  
7 2015 to 2021. Today we are asking for the option to select  
8 highly qualified candidates from outside of the department to  
9 lead our facilities. I do not take for granted the  
10 contributions of our current wardens and acting wardens.  
11 Without them we would not have accomplished so much in the last  
12 11 months, from turning around our young adult facility, which  
13 at the start of the year was the department's most violent, and  
14 bringing it to a level of calm that it has not experienced for  
15 some years, to increasing court production from 60 percent in  
16 January of this year to over 90 percent citywide today, to  
17 implementing measures and engaging with their respective staff  
18 to get officers to return to work, reducing the percentage of  
19 staff out sick from 26.1 percent in January to 12.2 percent  
20 today. But we still have a great more that needs to be done.

21           Your Honor, asking for the flexibility to hire outside  
22 candidates does not lessen my appreciation for the current  
23 wardens and acting wardens who have stepped up to the  
24 challenge. I believe that with this infusion of talent, one  
25 day in the future the department will once again have wardens

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1           The Court recognizes that there have been stops,  
2 starts, and backward progression over the past six years.  
3 However, there are concrete steps being taken now, there are  
4 concrete structural changes, and there are indications of  
5 progress that the Court does not find appropriate to impede or  
6 further complicate at this time.

7           With the aid of meaningful and detailed continued  
8 reporting from the monitor, including special reporting as may  
9 be necessary, the Court will hold the defendants accountable  
10 for maintaining a sustained pace of reform. Should their  
11 efforts or defendants' ability to translate their commitments  
12 into meaningful change wane, the Court will be in a more  
13 appropriate position to entertain a receivership application,  
14 and at the conference following the next monitor report, the  
15 Court will again hear the parties as to whether further  
16 commencement of motion practice or other further intervention  
17 is necessary.

18           So the application to commence motion practice and a  
19 full briefing schedule is denied at this point without  
20 prejudice to renewal after the next report.

21           I now turn to the monitoring team's request to modify  
22 the reporting schedule. The Court has carefully considered the  
23 request, and the Court grants the request to modify the  
24 monitoring team's reporting schedule as set forth in Section G,  
25 paragraphs 2(iii) and (iv) and paragraph 5(ii)(2) of the